

REMARKS

In response to the above-identified Office Action, Applicant amends the application and seeks reconsideration thereof. In this response, one claim has been amended, no claims have been added and no claims have been cancelled. Accordingly, Claims 1-22 are pending. Claim 1 has been amended to correct a typographical error.

Claims Rejected Under 35 U.S.C. §102

The Examiner has rejected Claims 1-10 and 12-22 under 35 U.S.C. §102 as being anticipated by Vuppala, et al., Layer-3 Switching Virtual Network Port: An Inter-network Switching Framework (“Vuppala”). [Upon further review of the Office Action, Applicant believes that the Examiner intended to reject Claims 1-9 and 11-22 in this rejection. Accordingly, Applicant responds on that basis.] Applicant traverses this rejection.

It is axiomatic that to anticipate a claim, every element of the claim must be disclosed within the single reference. Referring first to Claim 1, Applicant respectfully submits that Vuppala fails to teach the remote logical port model to model a remote physical port as claimed. The Examiner relies on language from Vuppala which states that a virtual network port “makes a remote physical port appear to be directly connected to the local node.” However, Applicant respectfully submits that this fails to teach modeling of the remote physical port within the local node. The Examiner appears to be equating the virtual network port with Applicant’s RLP model. In fact, all the cited language teaches is that if you send a packet to a virtual network port on the node it will arrive at the physical port on the remote node. This fails to teach or suggest Applicant’s claimed modeling.

This is even more apparent in connection with Claim 5 which reflects that the RLP model comprises an RPP model data structure to hold data indicating

characteristics of the RPP and an RPP traffic shaper to make a transmission unit eligible consistent with the characteristics of the RPP. As a general matter, the Vuppala reference deals with where the transmission should be sent while instantly claimed invention deals with when a transmission should be sent.

Thus, Vuppala fails to teach or suggest that the virtual port connection includes such a data structure or a traffic shaper as claimed. Independent Claims 11 and 16 also claim the notion of modeling remote physical ports as a plurality of remote logical ports. Moreover, with respect to Claim 16, the Examiner has not pointed to and Applicant has been unable to discern any teaching or suggestion of reflecting the quality of service from a control aggregator to the RPPs. At least for the foregoing reasons, it is respectfully submitted that all independent claims are patentable over Vuppala. Accordingly, the dependent claims are similarly patentable at least because they are dependent on patentable independent claims. Applicant believes that Vuppala has been misapplied and inconsistently applied in the context of the dependent claims.

Among other things, Applicant takes issue with the Examiner's characterization that page 640, lines 3-4 disclose a flow parameter database. A mere mention of a topology database in these lines fails to meet the standard for anticipation. A number of other features of Applicant's claims are also not taught or suggested by the reference. However, in view of the patentability of independent claims, it is not necessary to address those differences here. But, Applicant requests the Examiner revisit the dependant claims in light of the above comments.

Claim Rejected Under 35 U.S.C. §103

The Examiner rejected Claim 11 [10] Under 35 U.S.C. §103 as rendered obvious by Vuppala in view of Bjornberg, U.S. Patent No. 6,496,567 ("Bjornberg"). Applicant respectfully traverses this rejection.

Applicant submits that Bjornberg fails to cure the deficiencies discussed above in connection with Vuppala's application of the independent claims. Accordingly, Claim 10 is patentable over the combination of references.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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Dated: October 18, 2004

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 18, 2004.

Susan M. Barrette
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10/18/2004
Date